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10/648,895	08/27/2003	Se Kit Yuen	9585-4	5111

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EXAMINER

NEGRON, ISMAEL

ART UNIT PAPER NUMBER

2875

DATE MAILED: 08/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/648,895

Applicant(s)

YUEN, SE KIT

Examiner

Ismael Negron

Art Unit

2875



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☒ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 August 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed on June 27, 2005 has been entered. Claims 1-6 have been amended. Claim 7 has been cancelled. No claim has been added. Claims 1-6 are still pending in this application, with claim 1 being independent.

Abstract

2. The abstract of the disclosure is objected to because it refers to the purported merits or speculative applications of the claimed invention. Correction is required. See MPEP § 608.01(b).

The examiner suggests deleting the last sentence of the abstract.

Specification

3. A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is strongly suggested. The substitute specification filed must be accompanied by a statement that it contains no new matter.

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Claim 1 recites a "focus lamp unit chamber", a "cold cathode lamp unit chamber" and a "flash lamp unit chamber" while the detailed description is

silent as to such elements being part of the disclosed structure. In addition, note that while three light sources are claimed, only two are presented by the detailed description.

Claim Rejections - 35 USC § 112

5. Claims 5 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 5 is indefinite as it is not clear if the newly recited "*long-life cold cathode fluorescent lamp*" is a CCF lamp in addition to the previously claimed CCF lamp (previously introduced in Claim 1), or if it was the applicant's intention to further limit the previously claimed CCF lamp to lamps having a long life.

The applicant is advised that in comparing the claimed invention to the Prior Art the Examiner assumed the instant invention, as defined by Claim 5, to include just one CCF lamp, such lamp being a long-life CCF lamp. If the Examiner's assumption is correct, Claim 5 must be amended to read: The hand-hold multi-functional cold cathode fluorescent lamp according to claim 1, wherein ~~a long-life~~ **the** cold cathode fluorescent lamp **unit** is adopted as at least one of the light sources **a long-life cold cathode lamp unit**.

7. Claim 6 is indefinite as it is not clear to what lamp is the limitation “the light generated by the lamp does not emit heat through the sealing material” (lines 4 and 4) referring to, since three different light sources were previously claimed (Claim 1, lines 3-5).

In addition, Claim 6 is indefinite as it is not clear what the limitation “the light which could not generate heat” means, as all light sources inherently generate heat.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over KAO (U.S. Pat. 4,835,665) in view of CHEN (U.S. Pat. 5,903,219).

9. KAO discloses an emergency illumination device having:

- **a lamp body (as recited in Claim 1), Figure 1, reference number 1;**
- **the lamp body having an inner chamber (as recited in Claim 1), inherent;**

- **a focus lamp unit (as recited in Claim 1), Figure 1, reference number 11;**
- **the focus lamp unit being disposed at the upper end of the inner chamber (as recited in Claim 1), as seen in Figure 1;**
- **a flash lamp unit (as recited in Claim 1), Figure 1, reference number 21;**
- **the flash lamp unit being disposed at the back of the lamp body (as interpreted from Claim 1), as seen in Figure 1;**
- **an electric source circuit (as recited in Claim 1), as seen in Figure 2;**
- **the electric source circuit being located inside the inner chamber (as recited in Claim 1), inherent;**
- **a siren (as recited in Claim 1), Figure 1, reference number 22;**
- **a siren activating switch (as recited in Claim 1), Figure 1, reference number 4;**
- **an arcuate reflecting unit (as recited in Claim 2), as evidenced by Figure 1;**
- **at least one switch (as recited in Claim 2), Figure 1, reference number 13;**
- **the lamp body being easy to hold and drop resistant (as recited in Claim 4), as evidenced by Figure 1; and**

- **a transparent of semi-transparent light source cover (as recited in Claim 6), as seen in Figure 1.**

10. KAO discloses all the limitations of the claims, except:

- a cold-cathode lamp unit (as recited in Claim 1);
- the cold-cathode lamp unit being disposed in the inner chamber at the front end of the lamp body (as recited in Claim 1);
- the siren being activated by pulling a rope (as recited in Claim 1);
- a planar reflective unit (as interpreted from Claim 2);
- a socket (as recited in Claim 2);
- the socket being for coupling an external power source (as recited in Claim 2);
- a pull switch (as recited in Claim 2);
- the pull switch having a hook (as recited in Claim 2);
- the pull switch hook activating the pull switch for powering the siren when the pull switch hook is pulled (as recited in Claim 2);
- the lamp units being capable of being used continuously for more than 100,000 hours (as recited in Claim 3);
- the lamp body being made of rubber or other elastic material (as recited in Claim 4); and
- the cold-cathode lamp unit having a long life (as recited in Claim 5).

11. CHEN discloses an emergency illumination device having:

Art Unit: 2875

- **a lamp body (as recited in Claim 1), Figure 1, reference number 1;**
- **the lamp body having an inner chamber (as recited in Claim 1), as seen in Figure 1;**
- **a focus lamp unit (as recited in Claim 1), Figure 1, reference number 17;**
- **the focus lamp unit being disposed at the upper end of the inner chamber (as recited in Claim 1), as seen in Figure 1;**
- **an electric source circuit (as recited in Claim 1), Figure 1, reference number 11;**
- **the electric source circuit being located inside the inner chamber (as recited in Claim 1), as seen in Figure 1;**
- **a siren (as recited in Claim 1), Figure 1, reference number 12;**
- **the siren being activated by pulling a rope (as interpreted from Claim 1), column 3, lines 8-11;**
- **a main switch (as recited in Claim 2), Figure 1, reference number 161;**
- **a pull switch (as recited in Claim 2), Figure 1, reference number 13;**
- **the pull switch having a hook (as recited in Claim 2), Figure 1, reference number 21;**

- **the pull switch hook activating the pull switch for powering the siren when the pull switch hook is pulled (as recited in Claim 2), column 2, lines 55-60; and**
- **the lamp body being made of rubber or other elastic material (as recited in Claim 4), as evidenced by Figure 1.**

12. It would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to include the siren-activating pull switch of CHEN in the emergency illumination device of KAO to increase the personal protection utility of such emergency illumination device by providing means for protecting personal items from being stolen, as per the teachings of CHEN (see column 1, lines 4-10).

13. Regarding the claimed invention having at least a third light source, such third light source being a cold-cathode lamp unit (as recited in Claim 1), it would have been obvious to one of ordinary skill in the art at the time the invention was made to include such third light source, since it has been held that mere duplication of essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. In this case, including at least a third light source to the combination of KAO and CHEN would have enable such device to increase it visibility in an emergency situation, by providing illumination from the front and back of the lamp body. Regarding the third light source being specifically a cold-cathode light source, such limitation was considered an obvious matter of design choice, since the applicant has not disclosed that using specifically a cold-cathode light source solves any problem or is for a

particular reason. It appears that the claimed invention would perform equally well with the light sources of KAO, or any of the light sources available in the Prior Art.

14. Regarding a socket for coupling an external power source (as recited in Claim 2), the examiner takes Official Notice that the use of external power source connections is old and well known in the illumination art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include such socket in the apparatus of KAO and CHEN. One would have been motivated to extend the life and lower the operating cost of the combined structure of KAO and CHEN by providing means for recharging the internal power source of KAO and CHEN.

15. Regarding the lamp units being capable of being used continuously for more than 100,000 hours (as recited in Claim 3) or having a long life (as recited in Claim 5), the applicant is advised that it has been held by the courts that the recitation that an element is "capable of" performing a function or serve in a given application is not a positive limitation, but only requires the ability to so perform. *In re Hutchinson*, 69 USPQ 138. In this case, since the instant application is silent as to how or why the disclosed light sources are capable of such "100,000 hours" operation, such feature was considered an inherent feature of the structural limitations disclosed individually, or suggested by the combined teachings of KAO and CHEN.

16. Applicant's failure to traverse the Examiner's assertion of official notice (presented in Section 18 of the previous Office Action) is noted. The applicant is

advised that having a socket for coupling an external power source (as recited in Claim 2) has been considered as admitted Prior Art. See MPEP § 2144.03(C).

Response to Arguments

17. Applicant's arguments filed June 27, 2005 have been fully considered but they are not persuasive.

18. Regarding the Examiner's rejection of Claim 1 under 35 U.S.C. 103(a) as being unpatentable over KAO (U.S. Pat. 4,835,665) in view of CHEN (U.S. Pat. 5,903,219), the applicant argues that the cited reference fails to disclose all the features of the claimed invention, specifically KAO not disclosing a rope handle to activate the alarm system, and CHEN not including a plurality of lamps. The applicant further argues that neither reference teaches or suggests the use of three lamps provided in a single device, such device further having a rope handle activated siren. Even further the applicant argues that there is no teaching or suggestion of using a cold cathode lamp as at least one of the light sources.

19. With respect to claims 2-6 the applicant presents no arguments, except stating that such claims are dependent upon Claim 1 and would be allowable if the independent claim is allowed.

20. In response to applicant's arguments against the references individually (e.g. KAO not having a rope handle to activate the alarm system, and CHEN not having a plurality of lamps), the applicant is respectfully advised that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In this case, as detailed in previous sections 9-13 of the instant Office Action, the rejection was based on the combined teachings (emphasis added) of KAO and CHEN. While it might be true that both references failed to individually disclosed the claimed invention, it would have been obvious to combine both references to obtain a device having the advantages of both patented inventions.

21. Regarding applicant's arguments that the cited combination of references failed to teach or suggest the use of three lamps provided in a single device, such device further having a rope handle activated siren, the applicant is directed to sections 12 and 13 of the instant Office Action, where such limitations are addressed. It is noted, however, that the applicant failed to provide evidence or rationale supporting this argument. See MPEP § 2145.

22. Regarding applicant's arguments that the cited combination of references failed to teach or suggest the use of specifically a cold cathode lamp as at least one of the light sources, the applicant is directed to Section 13 of the instant Office Action, where

such limitation is addressed. It is noted, however, that the applicant failed to provide evidence or rationale supporting this argument. See MPEP § 2145.

23. The applicant is strongly advised to carefully review the prior art references cited as relevant in the previous Office Action (Section 19), as such references provide support for the Examiner's assertion of obviousness in the illumination art.

Conclusion

24. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

25. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


26. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ismael Negrón whose telephone number is (571) 272-

Art Unit: 2875

2376. The examiner can normally be reached on Monday-Friday from 9:00 A.M. to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea, can be reached at (571) 272-2378. The facsimile machine number for the Art Group is (703) 872-9306.

27. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications maybe obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, go to <http://pair-direct.uspto.gov>. Should you have questions on access to Private PAIR system, contact the Electronic Business Center (EBC) toll-free at 866-217-9197.



THOMAS M. SEMBER
PRIMARY EXAMINER

SMI
Inf

August 23, 2005